



Federal Communications Commission
Washington, D.C. 20554

January 24, 2007

DA 07-181

**VIA REGULAR AND CERTIFIED MAIL-
RETURN RECEIPT REQUESTED**

B K Marine Construction, Inc.
3500 SW 14th St.
Deerfield Beach, FL 33442
Attn: Bob Kennedy

RE: Petition for Termination of License of Tarmac Florida Inc., Station WPTR242, Fort
Pierce, Florida; FCC File No. 0000598516

Dear Mr. Kennedy:

This letter responds to the Petition for Termination of License (Petition) filed on behalf of B.K. Marine Construction, Inc. (BK) on December 28, 2005.¹ BK seeks the termination of the license of Tarmac Florida, Inc. (Tarmac) for trunked 900 MHz Business Radio Service Station WPTR242, Fort Pierce, Florida. For the reasons set forth below, we grant the Petition and will modify the Commission's licensing records accordingly.

By way of background, the Commission granted Tarmac's license for Station WPTR242 on November 28, 2001.² The station was authorized as part of a community repeater also used by BK.³ In its December 2005 Petition, BK alleged (and provided documentation) that Tarmac terminated its use of the community repeater in 2003, and had not used the facility since that time.⁴ Consequently, BK requested that Tarmac's license be deemed to have canceled automatically pursuant to Section 90.157(a) of the Commission's Rules, which provides that a Part 90 station license cancels automatically upon permanent discontinuance of operations.⁵

¹ See Petition for Termination of License (filed Dec. 28, 2005) (Petition); see also E-mail dated Sept. 14, 2006 from Richard S. Becker and James S. Finerfrock, counsel for B.K. Marine Construction, Inc., to Andra Cunningham, Attorney, Public Safety and Critical Infrastructure Division; Letter dated Feb. 16, 2006 from Richard S. Becker, Richard S. Becker and Associates Chartered, counsel for B K Marine Construction, Inc., to Tracy Simmons, Federal Communications Commission; Letter dated Jan. 31, 2006 from Richard S. Becker, Richard S. Becker and Associates Chartered, counsel for B K Marine Construction, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission.

² See FCC File No. 0000598516.

³ See license for Station WPTR255, Fort Pierce, Florida.

⁴ See Petition at 1; Exhibits 4, 4.1 and 4.2.

⁵ 47 C.F.R. § 90.157(a); see also 47 C.F.R. § 1.955(a)(3) (authorizations automatically terminate, without specific Commission action, if service is permanently discontinued). For the purposes of Section 90.157, any station which has not operated for one year or more is considered to have been permanently discontinued. 47 C.F.R. § 90.157(a).

On August 10, 2006, the Wireless Telecommunications Bureau's Public Safety and Critical Infrastructure Division (Division),⁶ acting pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁷ requested that Tarmac provide information regarding the operational status of Station WPTR242.⁸ The letter stated that if Tarmac failed to respond within thirty days, the Division could conclude that the authorization has terminated due to permanent discontinuance of operations.⁹ On August 24, 2006, Division staff received an e-mail response from Titan America, owner of Tarmac, confirming that the station had been out of operation for "two to three years," and stating that Tarmac no longer needed the license.¹⁰

In light of Tarmac's confirmation that Station WPTR242 has been out of operation for over twelve months, we grant BK's Petition requesting that Tarmac's license be deemed to have canceled automatically. We will update the Commission's Universal Licensing System to reflect the cancellation of the license for Station WPTR242.

Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 47 C.F.R. §§ 1.955(a)(3) and 90.157 of the Commission's Rules, 47 C.F.R. §§ 1.955(a)(3), 90.157, the petition filed by B.K. Marine Construction, Inc. on December 28, 2005 IS GRANTED, and the Commission's licensing records SHALL BE MODIFIED to reflect the cancellation of the license for Station WPTR242.

⁶ Pursuant to a Commission reorganization effective September 25, 2006, certain duties of the Public Safety and Critical Infrastructure Division were assumed by the Mobility Division. *See* Establishment of the Public Safety and Homeland Security Bureau, *Order*, 21 FCC Rcd 10867 (2006).

⁷ 47 U.S.C. § 308(b).

⁸ Letter dated Aug. 10, 2006 from Scot Stone, Deputy Chief, Public Safety and Critical Infrastructure Division to Tarmac Florida Inc.

⁹ *See id.* at 1.

¹⁰ Email dated Aug. 24, 2006 from Christy Burleson, Legal Administrative Assistant, Titan America, to Andra Cunningham, Attorney, Public Safety and Critical Infrastructure Division.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

cc: Tarmac Florida Inc.
455 Fairway Drive
Deerfield Beach, Florida 33441
Attn: Nancy Strong, Telecommunications Manager

Wireless Spectrum Resources, Inc.
PO Box 162655
Miami, Florida 33116-2655
Attn: John L. Theimer

Richard S. Becker & Associates, Chartered
7128 Fairfax Road
Bethesda, MD 20814
Attn: Richard S. Becker
James S. Finerfrock